

## § 12.5

## 18 CFR Ch. I (4–1–11 Edition)

(i) The Regional Engineer or other authorized Commission representative who issued the order or directive rescinds or amends that order or directive or stays its effect; or

(ii) The Commission stays the effect of the order or directive, or amends or rescinds the order or directive on appeal.

(3) An appeal or motion for rescission, amendment, or stay of any order or directive issued under this section must contain a full explanation of why granting the appeal or the request for rescission or amendment of the order or directive, or for stay for the period requested, will not endanger life, health, or property.

[Order 122, 46 FR 9036, Jan. 28, 1981, as amended by Order 225, 47 FR 19056, May 3, 1982; 49 FR 29370, July 20, 1984]

### § 12.5 Responsibilities of licensee or applicant.

A licensee or applicant must use sound and prudent engineering practices in any action relating to the design, construction, operation, maintenance, use, repair, or modification of a water power project or project works.

## Subpart B—Reports and Records

### § 12.10 Reporting safety-related incidents.

(a) *Conditions affecting the safety of a project or its works—1) Oral reports.* An applicant or licensee must report by telephone to the Regional Engineer any condition affecting the safety of a project or projects works, as defined in § 12.3(b)(4). The initial oral report must be made as soon as practicable after that condition is discovered, without unduly interfering with any necessary or appropriate emergency repair, alarm, or other emergency action procedure.

(2) *Written reports.* Following the initial oral report required in paragraph (a)(1), the applicant or licensee must submit to the Regional Engineer a written report on the condition affecting the safety of the project or project works verified in accordance with § 12.13. The written report must be submitted within the time specified by the Regional Engineer and must contain

any information the Regional Engineer directs, including:

- (i) The causes of the condition;
- (ii) A description of any unusual occurrences or operating circumstances preceding the condition;
- (iii) An account of any measure taken to prevent worsening of the condition;
- (iv) A detailed description of any damage to project works and the status of any repair;
- (v) A detailed description of any personal injuries;
- (vi) A detailed description of the nature and extent of any private property damages; and
- (vii) Any other relevant information requested by the Regional Engineer.

(3) The level of detail required in any written report must be commensurate with the severity and complexity of the condition.

(b) *Deaths or serious injuries.* (1) Promptly after becoming aware of any drowning or other accident resulting in death or serious injury that occurs at the project, the applicant or licensee must report that drowning or other accident to the Regional Engineer in writing, including a description of the cause and location of the accident.

(2) The written report of any death or serious injury considered or alleged to be project related must also describe any remedial actions taken or proposed to avoid or reduce the chance of similar occurrences in the future and be verified in accordance with § 12.13.

(3) Accidents that are not project-related may be reported by providing a copy of a clipping from a newspaper article, if available.

(4) For the purposes of this paragraph, *project-related* includes any deaths or serious injuries involving a dam, spillway, intake, or power line, or which take place at or immediately above or below a dam.

### § 12.11 Reporting modifications of the project or project works.

(a) *Reporting requirement.* Regardless of whether a particular modification is permitted without specific prior Commission approval, an applicant or licensee must report any modification of the project or project works to the Regional Engineer in writing, verified in

accordance with §12.13, at the time specified in paragraph (b) of this section.

(b) *Time of reporting.* (1) Any modification that is an emergency measure taken in response to a condition affecting the safety of the project or project works must be submitted with the report of that condition required by §12.10(a)(2).

(2) In all other instances, the modification must be reported at least 60 days before work on the modification begins.

#### § 12.12 Maintenance of records.

(a) *Kinds of records—1) General rule.* Except as provided in paragraph (a)(2) of this section, the applicant or licensee must maintain as permanent project records in addition to those required in part 125 of this chapter, the following information:

(i) Engineering and geological data relating to design, construction, maintenance, repair, or modification of the project, including design memoranda and drawings, laboratory and other testing reports, geologic data (such as maps, sections, or logs of exploratory borings or trenches, foundation treatment, and excavation), plans and specifications, inspection and quality control reports, *as built* construction drawings, designers' operating criteria, photographs, and any other data necessary to demonstrate that construction, maintenance, repair, or modification of the project has been performed in accordance with plans and specifications;

(ii) Instrumentation observations and data collected during construction, operation, or maintenance of the project, including continuously maintained tabular records and graphs illustrating the data collected pursuant to §12.41; and

(iii) The operational and maintenance history of the project, including:

(A) The dates, times, nature, and causes of any complete or partial unscheduled shut-down, suspension of project operations, or reservoir filling restrictions related to the safety of the project or project works; and

(B) Any reports of project modifications, conditions affecting the safety of the project or project works, or deaths or serious injuries at the project.

(2) *Exception.* The applicant or licensee is not required to maintain as permanent project records any information specified in paragraph (a)(1) of this section that was or reasonably would have been prepared before the applicant or licensee acquired control of the project and that the applicant or the licensee never acquired or reasonably could have acquired.

(b) *Location of records—1) Original records.* The applicant or licensee must maintain the originals of all permanent project records at a central location, such as the project site or the main business office of the applicant or licensee, secure from damage from any conceivable failure of the project works and convenient for inspection. The applicant or licensee must keep the Regional Engineer advised of the location of the permanent project records.

(2) *Record copies.* If the originals of the permanent project records are maintained at a central location other than the project site, the applicant or licensee must maintain at the project site copies of at least the project Exhibit G or L (design drawings), instrumentation data, and operational history that are necessary to the safe and efficient operation of the project.

(3) In accordance with the provisions of part 125 of this chapter, the applicant or licensee may maintain original records, or record copies at the project site, in microform, if appropriate equipment is readily available to view the records.

(c) *Transfer of records.* If the project is taken over by the United States at the end of a license term or the Commission issues a new license to a different licensee, the prior licensee must transfer the originals of all permanent project records to the custody of the administering Federal agency or department or to the new licensee.

#### § 12.13 Verification form.

If a document submitted in accordance with the provisions of this part must be verified, the form of verification attached to the document must be the following:

State of [            ],  
County of [            ], ss: